



Bart L. Graham
Commissioner

State of Georgia
Department of Revenue

Suite 15300
1800 Century Boulevard
Atlanta, Georgia 30345
(404) 417-2100

NOTICE

RE: (I) Repeal of current Rule 560-12-2-.34 "Employees' Meals." and adoption of new Rule 560-12-2-.34 "Employees' Meals or Beverages."

(II) Repeal of current Rule 560-12-2-.63 "Machinery, Replacement Manufacturing. Amended."

(III) Repeal of current Rule 560-12-2-.100 "Orphans' Homes Operated as Nonprofit Organizations" and adoption of new Rule 560-12-2-.100 "Child-caring Institution, Child-placing Agency, or Maternity Home."

(IV) Adoption of new Rule 560-12-3-.22 "Application for Certificate of Exemption for a Child-caring Institution, Child-placing Agency, or Maternity Home."

(V) Amendment of current Rule 560-12-2-.106 "United States Government Defense Contractors."

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Chapter 560-12-2 of the Rules and Regulations of the State of Georgia by repealing Rule 560-12-2-.34, entitled "Employees' Meals." and adopting in its place new Rule 560-12-2-.34, entitled "Employees' Meals or Beverages."

The Department also proposes to amend Chapter 560-12-2 by repealing Rule 560-12-2-.63, entitled "Machinery, Replacement Manufacturing. Amended." There shall be no rule adopted in its place at this time.

The Department also proposes to amend Chapter 560-12-2 by repealing Rule 560-12-2-.100, entitled "Orphans' Homes Operated as Nonprofit Organizations" and adopting in its place new Rule 560-12-2-.100, entitled "Child-caring Institution, Child-placing Agency, or Maternity Home."

The Department also proposes to amend Chapter 560-12-3 by adopting new Rule 560-12-3-.22, entitled "Application for Certificate of Exemption for a Child-caring Institution, Child-placing Agency, or Maternity Home."

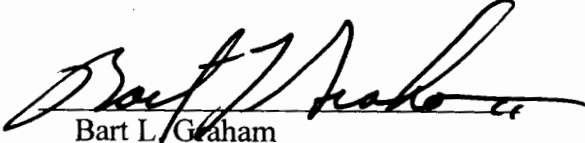
The Department also proposes to amend Chapter 560-12-2 by amending Rule 560-12-2-.106, entitled "United States Government Defense Contractors."

Attached with this notice are exact copies and synopses of the proposed rules. The proposed rules are being adopted and/or repealed under the authority of O.C.G.A. §§ 48-2-12 and 48-8-3(34).

The Department of Revenue shall consider the adoption and/or repeal of the above referenced proposed Rules at 10:00 a.m. on July 6, 2006 in Suite 15300 of the Department's headquarters at 1800 Century Blvd. NE, Atlanta, GA 30345-3205.

The Department must receive all comments regarding the above referenced proposed Rules from interested persons no later than 10:00 a.m. on July 6, 2006. Written comments must be sent to: Commissioner, Georgia Department of Revenue, 1800 Century Blvd. N.E., Suite 15300, Atlanta, GA 30345-3205. Electronic comments must be sent to regcomments@dor.ga.gov. Facsimile comments must be sent to (404) 417-6651. **Please reference "Notice Number SUT-2006-2" on all comments and include the specific Rule number(s) for which the comments apply.**

Dated: June 2, 2006


Bart L. Graham
Commissioner, Department of Revenue

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE SALES AND USE TAX DIVISION

CHAPTER 560-12-2 SUBSTANTIVE RULES AND REGULATIONS

560-12-2-.34 Employees' Meals or Beverages.

The purpose of Proposed Rule 560-12-2-.34 is to provide clarity regarding the applicability of Georgia sales and use tax to meals or beverages sold or provided to employees.

Paragraph (1) of the Rule explains the Rule's purpose.

Paragraph (2) of the Rule explains the taxability of meals or beverages sold to employees.

Paragraph (3) of the Rule explains the application of Georgia sales and use tax to meals or beverages provided to employees without charge.

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

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560-12-2-.34 Employees' Meals or Beverages.

560-12-2-.34 Employees' Meals or Beverages.

~~—(1) Meals Sold to Employees: Any employer who sells meals to employees must add the tax to the charge and remit the tax so collected.~~

~~—(2) Meals Furnished Employees as Compensation: Any employer who operates eating facilities and in connection therewith furnishes its employees meals without charge as a part of their compensation is, in effect, bartering meals for services. Such a transaction is a retail sale for the fair market value of the meal served its employees. For the purpose of administration, the value placed upon meals furnished employees by their employer for purposes of the Federal social security tax, or the Georgia unemployment tax will be taken to be the value for purposes of the Georgia sales tax.~~

~~—(3) Meals Furnished Employees as Requisite of Employment: Where it is required by the duties of the employment that an employee take meals from eating facilities of his employer, and such meals are furnished such employee without charge and not as compensation, the Employer is the user or consumer of such meals in the conduct of its business and is subject to the tax on the "cost price" of such meals. The "cost price" is defined as the fair market value of such meals.~~

~~—(4) In the event that the employer's records do not accurately reflect the market value of meals furnished to employees, the Commissioner may use as a basis for computing the tax as stated in Paragraph (2) above.~~

(1) Purpose. The purpose of this Rule is to provide guidance regarding the applicability of Georgia sales and use tax to meals or beverages sold or provided without charge to employees.

(2) Meals or beverages sold to employees.

(a) The sale of a meal or beverage by an employer to an employee is subject to Georgia sales tax on the total sales price charged to the employee. The following examples illustrate the application of Georgia sales and use tax to such transactions:

1. An employer allows an employee to purchase a \$15.00 meal from the menu at a fifty percent (50%) discount. The employer is required to charge Georgia sales tax to the employee on \$7.50.

2. An employer provides a meal to an employee and declares \$5.00 as a part of the employee's compensation. The employer is required to charge sales tax to the employee on \$5.00.

(3) Meals or beverages provided without charge by employer.

(a) Meals provided by an employer without charge to an employee are taxable to the employer. The employer must remit use tax on the meal's cost as shown in the employer's books and records. The following examples illustrate the application of sales and use tax to such transactions:

1. An employer provides a \$15.00 meal off the menu at no charge to an employee. The employer is responsible for use tax on the cost price of the food purchased to prepare the meal.

2. An employer provides a meal and beverage that is prepared especially for employees. The meal and beverage is provided at no charge to the employee. The employer paid Georgia sales tax on the items used to prepare the meal and beverage when purchased from the supplier. No additional tax is due from the employer on the items used to prepare the employee's meal and beverage.

3. An employer allows an employee to have soft drinks during work hours without charge. The employer purchased the soft drinks under terms of resale. The employer will be responsible for use taxes on the cost price of all soft drinks provided to employees.

(b) In the event the exact cost of the employee's meal or beverage is not represented in the employer's records, the cost shall be deemed to be fifty percent (50%) of the retail sales price of the meal or beverage.

Authority O.C.G.A. § 48-2-12.